

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:05-cv-00329-GKF-PJC
)	
TYSON FOODS, INC., <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO
PRECLUDE ARGUMENT, QUESTIONING, OR EVIDENCE THAT ENTRY OF THE
REQUESTED INJUNCTION UNDER RCRA WOULD INTERFERE OR CONFLICT
WITH ONE OR MORE STATE REGULATORY PROGRAMS (Dkt. No. 2416)**

EXHIBIT 2
Scott Thompson Deposition Excerpts

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

TYSON FOODS, INC., et al,)

Defendants.)

4:05-CV-00329-TCK-SAJ

- - - - -
THE VIDEOTAPED DEPOSITION OF
SCOTT THOMPSON, produced as a witness on behalf of
the Defendants in the above styled and numbered
cause, taken on the 4th day of January, 2008, in the
City of Oklahoma City, County of Oklahoma, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

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A P P E A R A N C E S

FOR THE PLAINTIFFS: Mr. Daniel Lennington
Asst. Attorney General
313 NE 21st Street
Oklahoma City, OK 73102

FOR TYSON FOODS: Mr. Stephen Jantzen
Attorney at Law
119 North Robinson
Suite 900
Oklahoma City, OK 73102

FOR CARGILL: Mr. John Tucker
Ms. Leslie Southerland
Attorneys at Law
100 West 5th Street
Suite 400
Tulsa, OK 74103

FOR SIMMONS FOODS: Mr. Bruce Freeman
Attorney at Law
One Williams Center
Suite 4000
Tulsa, OK 74172

FOR PETERSON FARMS: Mr. Scott McDaniel
Attorney at Law
320 South Boston
Suite 700
Tulsa, OK 74103

FOR GEORGE'S: Ms. Jennifer Lloyd
Attorney at Law
221 North College
Fayetteville, AR 72701
(Via phone)

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1 FOR WILLOW BROOK: Mr. David Brown
2 Attorney at Law
3 314 East High Street
4 Jefferson City, MO 65109
(Via phone)

5 FOR CAL-MAINE FOODS: Mr. Robert Redemann
6 Attorney at Law
7 1437 South Boulder
Tulsa, OK 74119
(Via phone)

8 FOR ODEQ: Mr. Sonny Johnson
9 Attorney at Law
10 707 North Robinson
11 7th Floor
12 Oklahoma City, OK 73102
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1 want to listen to part of.

2 MR. BROWN: Earlier we had one other person
3 but they appear to be gone.

4 MS. LLOYD: This is Jennifer Lloyd for
5 George's. Did you hear me before?

6 COURT REPORTER: Yes, Jennifer. Thank you.

7 MS. LLOYD: Okay. I wasn't sure if my
8 microphone was on the phone.

9 VIDEOGRAPHER: Thank you. The witness may
10 be sworn.

11 SCOTT THOMPSON
12 having first been duly sworn to testify the truth,
13 the whole truth and nothing but the truth, testified
14 as follows:

15 DIRECT EXAMINATION

16 BY MR. TUCKER:

17 Q Would you state your name for the Record, sir?

18 A Scott Thompson.

19 Q Mr. Thompson, my name is John Tucker, and I'm

20 going to be the first person to ask you questions in 10:13AM

21 your deposition today, and if I should ask a

22 question that's confusing or you do not understand,

23 would you please tell me rather than try to guess at

24 the answers so I can fix it before you try to

25 answer? 10:13AM

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1 solid waste.

2 Q Have you ever considered poultry litter to be
3 solid waste, your department?

4 A I haven't tried to think about it too much. I
5 haven't had that issue come up directly. 10:29AM

6 Q Would it be correct to say that up to this
7 point that your division has not considered poultry
8 litter to be solid waste?

9 A I would say that so far --

10 MR. LENNINGTON: I object to the form. I'm 10:29AM
11 not sure what department considered means. Go ahead
12 and answer, if you know.

13 A Ask that question again.

14 Q Let me rephrase it and see if I can make
15 everybody happy. Has the land protection division, 10:30AM
16 either under that name or its previous name, ever
17 treated poultry litter as solid waste?

18 MR. LENNINGTON: Objection to form. Go
19 ahead and answer.

20 A I don't recall ever having taken action 10:30AM
21 involving poultry litter as a waste.

22 Q Do you recall ever having identified poultry
23 litter as a solid waste?

24 MR. LENNINGTON: Objection to form. Go
25 ahead and answer. 10:30AM

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1 Q You being the department; you are speaking for
2 the department.

3 A Have we specifically identified it as a solid
4 waste in an actual case? No, not that I recall.

5 Q Is agricultural waste in general something 10:30AM
6 that's handled by your department or is it handled
7 by another state agency?

8 A I would say in general, no.

9 Q In general, no, it is not handled by your land
10 protection division? 10:30AM

11 A Right.

12 Q Normally it is handled by what department?

13 A Agriculture department.

14 Q The Oklahoma Department of Agriculture?

15 A Right, or now it's something else, food and 10:31AM
16 agriculture.

17 Q ODAFF?

18 A Yeah.

19 Q You call it ODAFF now. You say generally. In
20 what respects would that word generally mean that 10:31AM
21 the land protection division of ODEQ would be
22 involved with agricultural waste?

23 A Well, if somebody -- if somebody wanted to
24 dispose of a bunch of material and came to us to
25 dispose of it, then it would be -- have to be 10:31AM

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